



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

October 29, 2012

Central Cascades Land Company, Inc.
PO Box 687
Roslyn WA 98941-0687

Re: Water Right Change Application No. CS4-05671sb5@4

We have received your trust water right application and have assigned the application number shown above. Please use this number in future communications with our office.

If you have any questions, please contact Teresa Mitchell at 509-575-2597.

Sincerely,

Mark Kemner, LHG
Section Manager
Water Resources Program

MK:hd
121016

App-trustwater.doc

FILE COPY



CLAIMANT NAME: **Central Cascades Land Company Inc** COURT CLAIM NO. 05671

Certificate Number: S4-83354-J

Subbasin: 05 Elk Heights

Source: Yakima River

Use: Seasonal Municipal Use

Period of Use: April 20 through September 30 for municipal use

Quantity: .093 cubic foot per second, 18.69 acre-feet of seasonal municipal use (5.97 acre-feet consumptive use and 12.72 acre-feet non-consumptive use)

Priority Date: **June 5, 1886**

Point of Diversion: Within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 27, T. 20 N., R. 15 E.W.M.

Place of Use: The service area described in the most recent Water System Plan/Small Water System Management Program approved by the Washington State Department of Health, so long as the City of Cle Elum is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have an effect of revising the place of use of this water right.

Limitations Of Use: The prorated portion of the conveyance loss water that was awarded by the Yakima Superior Court to Alan Lang and Carol Greene in the October 20, 2004 Stipulated Order has been determined to be 0.102 cfs. This quantity of conveyance water shall remain in the Younger Ditch for that purpose as needed.

For the purpose of clarity regarding the specific attributes of the remaining Potts portion of the water right on Younger Ditch: The Potts have 0.045 cfs which is comprised of 0.02 cfs for irrigation, 0.0019 cfs for stock water, and 0.023 cfs for conveyance water. They also have 4.31 acre-feet which is comprised of 4.22 acre-feet for irrigation, and 0.09 acre-feet for stock water.

All non-consumptive water diverted (up to 12.72 acre-feet) shall be returned to the Yakima River without any loss. Active compliance with this requirement shall be maintained in perpetuity. Therefore, in each Water System Plan update, the City of Cle Elum shall demonstrate active compliance by providing a specific accounting of the non-consumptive water pumped each year and the amount of non-consumptive water returned to the Yakima River for each year. In the event an update is not required by the Department of Health at least once every six years, then such demonstration and analysis must be provided to Ecology, concurrent with metering data submittals every six years.

The use of this water right by the City of Cle Elum is tied to the availability of water at Younger Ditch. When the June 5, 1886 water rights on Younger Ditch are regulated, then the subject City of Cle Elum water right shall also be regulated.

In the event this water right is relinquished, or otherwise not used, the proportionate share of conveyance loss associated with this right shall revert to the remaining Younger Ditch water right holders whose certificates include a discreet quantity of water for the purpose of conveyance. The reversion of this quantity of water shall be to the extent necessary to deliver the authorized quantity of water to the remaining authorized places of use. The maximum quantity of water affirmed for the entire length of the ditch for the purpose of conveyance is 2.895 cfs.

Comments:

This water right reflects changes approved pursuant to Water Right Change Application No. CS4-05671CTCLsb5@3.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

September 4, 2009

Central Cascades Land Co
Anne Watanabe
PO Box 687
Roslyn WA 98941-0687

RE: Water Right Change Application No. CS4-05671CTCLsb5@3; (KITTT-08-02)

In accordance with RCW 90.80.080 the Department of Ecology (Ecology) has reviewed the Record of Decision (ROD), Report of Examination (ROE), and all comments, protests, objections and other relevant information submitted by the Kittitas County Water Conservancy Board (the Board) for the above referenced application for change.

Ecology has **modified** the decision of the Board and the proposed change/transfer of water right is **approved** under the following conditions:

Summary of Ecology's Final Order

MAXIMUM CFS .093		MAXIMUM GPM		MAXIMUM AC-FT/YR 18.69 (5.97 consumptive) (12.72 non-consumptive)		TYPE OF USE, PERIOD OF USE Seasonal municipal use from April 20 through September 30	
SOURCE Yakima River				TRIBUTARY OF (IF SURFACE WATER)			
PARCEL NO.	1/4 SWSE	SECTION 27	TOWNSHIP N. 20	RANGE 15 EWM	WRIA 39	COUNTY Kittitas	
AT A POINT LOCATED:							
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED The place of use (POU) of this water right is the service area described in the most recent Water System Plan/Small Water System Management Program approved by the Washington State Department of Health, so long as the City of Cle Elum is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of revising the place of use of this water right.							
PARCEL NO.	1/4	1/4	SECTION	TOWNSHIP N.	RANGE		

INFO ONLY

Ecology has **MODIFIED** the decision of the Board as follows:

- 1) Ecology has MODIFIED the Board's decision\ROE as noted in the table above.
- 2) The following provision is ADDED to the PROVISIONS section in the Boards ROE:

All non-consumptive water diverted (up to 12.72 acre-feet) shall be returned to the Yakima River without any loss. Active compliance with this requirement shall be maintained in perpetuity. Therefore, in each Water System Plan update, the City of Cle Elum shall demonstrate active compliance by providing a specific accounting of the non-consumptive water pumped each year and the amount of non-consumptive water returned to the Yakima River for each year. In the event an update is not required by Department of Health at least once every 6 years then such demonstration and analysis must be provided to Ecology, concurrent with metering data submittals every 6 years.

- 3) The following provision is ADDED to the PROVISIONS section in the Boards ROE:

The prorated portion of the conveyance loss water that was awarded by the Yakima Superior Court to Alan Lang and Carol Green in the October 20, 2004 stipulated order has been determined to be 0.102 cubic feet per second (cfs). This quantity of conveyance water shall remain in the Younger Ditch for that purpose as needed.

- 4) The following provision is ADDED to the PROVISIONS section in the Boards ROE:

The use of this water right by the City of Cle Elum is tied to the availability of water at Younger Ditch. When the June 5, 1886 water rights on the Younger Ditch are regulated then the subject City of Cle Elum water right shall also be regulated.

- 5) For the purpose of clarity regarding the specific attributes of the remaining Potts water right on the Younger Ditch, the following is ADDED to the Board's ROE:

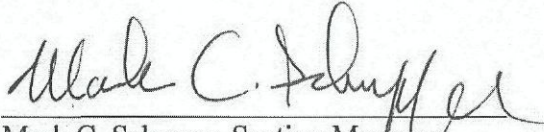
The Potts have 0.045 cfs, which is comprised of 0.02 cfs for irrigation, 0.0019 cfs for stock water, and 0.023 cfs for conveyance water. They also have 4.31 acre-feet which is comprised of 4.22 acre-feet for irrigation, and 0.09 acre-feet for stock water.

This Decision may be appealed pursuant to RCW 34.05.514(3), RCW 90.03.210(2), and Pretrial Order No. 12 entered in *State of Washington, Department of Ecology v. James Acquavella, et al.*, Yakima County Superior Court No. 77-2-01484-5 (the general adjudication of surface water rights in the Yakima River Basin). The person to whom this Decision is issued, if he or she wishes to file an appeal, must file the notice of appeal with the Yakima County Superior Court **within thirty (30) days of receipt of this Decision**. Appeals must be filed with the Superior Court Clerk's Office, Yakima County Superior Court, 128 North 2nd Street, Yakima WA 98901, RE: Yakima River Adjudication. Appeals must be served in accordance with Pretrial Order No. 12, Section III ("Appeals Procedures"). The content of the notice of appeal must conform to RCW 34.05.546. Specifically, the notice of appeal must include:

The name and mailing address of the appellant;
Name and address of the appellant's attorney, if any;
The name and address of the Department of Ecology;
The specific application number of the decision being appealed;
A copy of the decision;
A brief explanation of Ecology's decision;
Identification of persons who were parties in any adjudicative proceedings that led to Ecology's decision;
Facts that demonstrate the appellant is entitled to obtain judicial review;
The appellant's reasons for believing that relief should be granted; and
A request for relief, specifying the type and extent of relief requested.

The "parties of record" who must be served with copies of the notice of appeal under RCW 34.05.542(3) are limited to the applicant of the decision subject to appeal, Ecology and the Office of the Attorney General.

All others receiving notice of this Decision, who wish to file an appeal, must file the appeal with the Yakima County Superior Court within thirty (30) days of the date the Order was mailed. The appeal must be filed in the same manner as described above.



Mark C. Schuppe, Section Manager
Water Resources Program
Central Region Office

MCS:JTK:gg/090902

Enclosures: Construction Notice
Water Measurement Requirements

By Certified Mail: 7007 2560 0001 9534 6313

cc: Janet Rajala, Department of Ecology, Easter Region Office (email/pdf)
Chery Varnum, Kittitas County Water Conservancy Board
Philip Rigdon, Director, Natural Resources Division, Yakama Nation



Kittitas County
WATER CONSERVANCY BOARD
Application for Change/Transfer
Record of Decision

For Ecology Use Only	
Received:	RECEIVED
	JUN 24 2009
DEPARTMENT OF ECOLOGY - CENTRAL REGIONAL OFFICE	
Reviewed by:	_____
Date Reviewed:	_____

Applicant: Central Cascades Land Company Application Number: KIT-08-02

This record of decision was made by a majority of the board at an open public meeting of the Kittitas County Water Conservancy Board held on 6-16-2009 (date meeting was held).

☒ **Approval:** The (board name) Water Conservancy Board hereby grants conditional approval for the water right transfer described and conditioned within the report of examination on _____ (date report of exam was signed) and submits this record of decision and report of examination to the Department of Ecology for final review.

☐ **Denial:** The (board name) Water Conservancy Board hereby denies conditional approval for the water right transfer as described within the report of examination on _____ (date report of exam was signed) and submits this record of decision to the Department of Ecology for final review.

Signed:

Pat Deenen
Pat Deenen, Board Member
Kittitas County Water Conservancy Board

Date: 6-16-09
Abstain

Approve ☒
Deny ☐
Recuse ☐
Other ☐

Mary Burke
Mary Burke, Board Member
Kittitas County Water Conservancy Board

Date: 6-16-09

Approve ☒
Deny ☐
Abstain ☐
Recuse ☐
Other ☐

Gregg Hall, Board Member
Kittitas County Water Conservancy Board

Date: _____

Approve ☐
Deny ☐
Abstain ☐
Recuse ☒
Other ☐

Jerry Martens, Alternate
Kittitas County Water Conservancy Board

Date: _____

Approve ☐
Deny ☐
Abstain ☐
Recuse ☐
Other ☐

, Alternate
Kittitas County Water Conservancy Board

Date: _____

Approve ☐
Deny ☐
Abstain ☐
Recuse ☐
Other ☐

Mailed to the Department of Ecology Yakima Regional Office of Ecology, and other interested parties on _____ (date mailed).

If you have special accommodation needs or require this form in alternate format, please contact 360-407-6607 (Voice) or 711 (TTY) or 1-800-833-6388 (TTY).

Ecology is an equal opportunity employer

040-105(03/03)

Record of Decision No. (WR Change App Number)



(Board Name)
WATER CONSERVANCY BOARD
Application for Change/Transfer
OF A RIGHT TO THE BENEFICIAL USE OF THE PUBLIC WATERS OF
THE STATE OF WASHINGTON

RECEIVED

JUN 24 2009

DEPARTMENT OF ECOLOGY - CENTRAL REGIONAL OFFICE

Report of Examination

June 16, 2009

NOTE TO APPLICANT: Pursuant to WAC 173-153-130(8), the applicant is not permitted to proceed to act on the proposal until Ecology makes a final decision affirming, in whole or in part, the board's recommendation. It is advised that the applicant not proceed until the appeal period of Ecology's decision is complete.

NOTE TO AUTHOR: Read the instructions for completing a water conservancy board report of examination. Use the F11 key to move through the form.

<input checked="" type="checkbox"/> Surface Water	<input type="checkbox"/> Ground Water		
DATE APPLICATION RECEIVED February 19, 2008	WATER RIGHT DOCUMENT NUMBER (i.e., claim, permit, certificate, etc.) Claim #05671 (Acquavella)	WATER RIGHT PRIORITY DATE June 5, 1886	BOARD-ASSIGNED CHANGE APPLICATION NUMBER KITT 08-02

NAME Central Cascades Land Company	(CITY) Roslyn	(STATE) WA	(ZIP CODE) 98941
ADDRESS (STREET) 103 S. 2 nd Street, P.O. Box 687			

Changes Proposed: ☒ Change purpose ☐ Add purpose ☐ Add irrigated acres ☒ Change point of diversion/withdrawal
☐ Add point of diversion/withdrawal ☒ Change place of use ☐ Other (Temporary, Trust, Interties, etc.)

SEPA

The board has reviewed the provisions of the State Environmental Policy Act of 1971, Chapter 43.21C RCW and the SEPA rules, chapter 197-11 WAC and has determined the application is: ☒ Exempt ☐ Not exempt

BACKGROUND AND DECISION SUMMARY

Existing Right (Tentative Determination)

MAXIMUM CUB FT/ SECOND 0.195	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR 18.69	TYPE OF USE, PERIOD OF USE April 20 - September 30 for irrigation of 3.25 acres, stock water and conveyance loss				
SOURCE Yakima River			TRIBUTARY OF (IF SURFACE WATER)				
AT A POINT LOCATED: PARCEL NO.	¼ NW	¼ NE	SECTION 35	TOWNSHIP N. 20	RANGE 15E	WRIA 39	COUNTY. Kittitas
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED Lots 1, 3, and 4 of TALERICO SHORT PLAT NO. 01-31 as described and/or delineated on Short Plat filed in Book F of Short Plats, pages 206 and 207, and recorded January 16, 2002, under Auditor's File No. 200201160036, records of Kittitas County, State of Washington. Being that portion of the North half of Section 31, Township 20 North, Range 16 East, W.M. records of said County.							
PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE		
533236	NW	NE	31	20	16E		
17422	NE	NW	31	20	16E		
17423	NE	NW	31	20	16E		

Proposed Use

MAXIMUM CUB FT/ SECOND a) 0.093 municipal b) 0.102 conveyance loss	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR 18.69	TYPE OF USE, PERIOD OF USE Municipal, seasonal - April 20 - September 30				
SOURCE Yakima River			TRIBUTARY OF (IF SURFACE WATER)				
AT A POINT LOCATED: PARCEL NO.	SW¼	SE¼	SECTION 27	TOWNSHIP N. 20N	RANGE R15E	WRIA 39	COUNTY. Kittitas
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED City of Cle Elum Municipal Supply Service Area as defined in the City of Cle Elum Comprehensive Water Plan							
PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE		
Multiple Parcels							

Board's Decision on the Application

MAXIMUM CUB FT/ SECOND a) 0.093 municipal b) 0.102 conveyance loss	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR 18.69	TYPE OF USE, PERIOD OF USE Municipal, seasonal April 20 – September 30				
SOURCE Yakima River			TRIBUTARY OF (IF SURFACE WATER)				
AT A POINT LOCATED: PARCEL NO.	SW¼	SE¼	SECTION 27	TOWNSHIP N. 20N	RANGE 15E	WRIA 39	COUNTY. Kittitas
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD The City of Cle Elum Municipal Supply Service Area as defined in the City of Cle Elum Comprehensive Water Plan.							
PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE.		

DESCRIPTION OF PROPOSED WORKS

The applicant proposes to transfer the surface water rights to the City of Cle Elum for municipal supply purposes. The City supports this change application. See attached letter from the City of Cle Elum May 12, 2009.

The proposed transfer will allow the applicant's property, which is currently in the Cle Elum Urban Growth Area, to be served by Cle Elum's municipal water supply system, and thus allow the property to be annexed into the Cle Elum city limits. A new place of use, a new purpose and a new point of diversion is proposed. The new point of diversion of the surface water right will be from the City of Cle Elum's existing point of diversion located on the Yakima River on the south bank from within the N1/2 SE1/4 SW1/4 SE1/4 and the S1/2 NE1/4 SW1/4 of Section 27, T20N, R15E, W.M. The new place of use will be the City of Cle Elum's Municipal Water Supply Service Area.

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE: May 15, 2011	COMPLETE PROJECT BY THIS DATE: December 15, 2020	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE: January 1, 2022
---	---	--

REPORT

NOTE TO AUTHOR: This form reflects the minimum regulatory requirements as required in WAC 173-153-130(6). In accordance with WAC 173-153-130(5), "It is the responsibility of the water conservancy board to ensure that all relevant issues identified during its evaluation of the application, or which are raised by any commenting party during the board's evaluation process, are thoroughly evaluated and discussed in the board's deliberations. These discussions must be fully documented in the report of examination." Completion solely of the minimum regulatory requirements may not constitute a fully documented decision.

BACKGROUND [See WAC 173-153-130(6)(a)]

On February 19, 2008, Central Cascades Land Company of Roslyn, Washington filed an application for change of the Point of Diversion, Place of Use and Purpose of Use under *Ecology v. Acquavella (Acquavella)*, Yakima County Superior Court Case No. 77-2-01484-5 and under Court Claim No. 05671, and the October 20, 2004, Stipulated Order of Dismissal Regarding Joinder of an Additional Party of the *Acquavella* water rights adjudication, Cause No. 77-2-01484-5 for Subbasin No. 5 (Elk Heights). Water Right Claim No. 05671 was part of the Conditional Final Order issued on February 8, 2001, for Subbasin No. 5 (Elk Heights). This change application was accepted at an open public meeting on February 19, 2008, and the Board assigned application number KITT 08-02.

Attributes of the water right as currently documented

Name on certificate, claim, permit: Doris Marie Talerico

Water right document number: Court Claim No. 05671; Stipulated Order No. 77-2-01484-5

As modified by certificate of change number:

Priority date, first use: June 5, 1886

Water quantities: Qi: 0.105 cfs Qa: 22.5 acre ft./ year for irrigation, 0.01 cfs, 0.5 acre-feet per year for stock water, 0.125 cfs for conveyance loss.

NOTE: Pursuant to the October 20, 2004, Stipulated Order of Dismissal Regarding Joinder of an Additional Party, the court partitioned the water quantities under Claim No. 05671 so that Allen Lang and Carole Greene received 0.195 cfs and 18.69 acre-feet per year and Michael and Karen Potts received 0.045 cfs and 4.31 acre-feet per year. The amount received by Allen Lang and Carole Greene is the only portion of Claim No. 05671 proposed for change under this change application.

Source: Yakima River

Point of diversion/withdrawal: 750 feet south and 1150 feet east of the north quarter corner of Section 35, T20N, R15E, W.M.

Purpose of use: 4.0 acres for irrigation and stockwater

Period of use: April 20 – September 30

Place of use: That portion of the NW1/4 NE1/4 and the NE1/4 NW1/4 of Section 31, T20N, R16E, W.M., Kittitas County, Washington which is bounded by a line described as follows:

Beginning in the northwest corner of Said NE1/4; thence S 0°32'39" W, 30 feet to the true point of beginning; thence S

0°32'39" W, along the east boundary of said NE1/4 NW1/4, 200 feet; thence S 89° 47' 15" E, 305 feet; thence S 0°32'39" W, 287.70 feet; thence N 81° 48' 57" W, 794.77 feet; thence N 0° 32' 19" E, 376.63 feet; thence S 89° 37' 15" E, 482.80 feet to the true point of beginning.

Existing provisions: <family farm act, interruptable, etc.>

As confirmed by the February 8, 2001, Conditional Final Order for Subbasin No. 5 (Elk Heights) in *Acquavella*, the following Limitation of Use language exists for all claimants to portions of the Younger Ditch water right:

"In the event this water right is relinquished, or otherwise not used, the proportionate share of conveyance loss associated with this right shall revert to the remaining Younger Ditch water right holders whose certificates include a discreet quantity of water for the purpose of conveyance. The reversion of this quantity of water shall be to the extent necessary to deliver the authorized quantity of water to the remaining authorized places of use. The maximum quantity of water affirmed for the entire length of the ditch for the purpose of conveyance is 2.895 cfs."

In addition, Claim No. 05671 was partitioned according to the Stipulated Order of Dismissal Regarding Joinder of an Additional Party (Stipulated Order) filed on October 20, 2004, for Claim No. 05671 in *Acquavella*. The Stipulated Order prorated 0.195cfs to Allen Lang and Carole Greene. From this proration, the Board calculated that 0.10 cfs is to remain appurtenant to the Younger Ditch for conveyance loss.

Tentative determination of the water right

The tentative determination is provided on the front page of this report.

History of water use

<Describe the historical water use information that was considered by the board>

The water right was originally acquired by Doris Marie Talerico for irrigation and stockwatering. In 2002, Doris Talerico recorded the "Talerico Short Plat" which divided her property into 4 lots of 1.0 – 1.89 acres in size. Allen Lang and Carole Greene (Langs) acquired Lots 1, 3, and 4 of the Talerico Short Plat and Michael and Karen Potts (Potts) acquired Lot 2. The water rights under Claim No. 05671 were partitioned to the Langs and the Potts by Stipulated Order of Dismissal Regarding Joinder of an Additional Party in *Acquavella*. This change application only applies to the water rights prorated to the Langs by that Stipulated Order. The Board reviewed numerous supporting documents as part of the applicant's change application for the subject water right, all of which are part of the Board's file submitted to Ecology, including:

- Project Maps
- Court Claim No. 05671
- Stipulated Order of Dismissal Regarding Joinder of an Additional Party
- Conditional Final Order Sub-Basin No. 5 (Elk Heights)
- Statutory Warranty Deed (Talerico to Lang/Greene)
- Statutory Warranty Deed as to Water Rights (Lang/Greene to Central Cascades Land Company)
- Younger Ditch Easement and Agreement
- Water Transfer Working Group Project Description and Minutes (7/30/2007)
- WA DOE Acceptance Letters to Temporary Trust Water Right Program
- Affidavits
- Electrical Bills for Pump
- Work Order for Pump Installation
- Pump Calculations Chart
- Dated Aerial Photos (2001-2006)
- Soils Map
- Water and Natural Resource Group: Technical Memorandum - Consumptive Use Calculations
- Letter from City of Cle Elum dated May 12, 2009.

Court Records and Property Deeds.

Claim No. 05671 was confirmed by the Conditional Final Order for Subbasin No 5 (Elk Heights) issued on February 8, 2001, by the Yakima County Superior Court in *Acquavella*. On January 23, 2002, Allen Lang and Carole Greene, husband and wife (Lang) purchased from Doris Marie Talerico Lots 1, 3, and 4 of the Talerico Short Plat. A fulfillment statutory warranty deed was conveyed by Doris M. Talerico to the Langs on January 21, 2002, and recorded by Stewart Title on September 24, 2003, under Kittitas County Auditor's File no. 200309240079 a legal description of the property stated as:

Lots 1, 3, and 4 of the Talerico short Plat No. 01-31, as disclosed and/or delineated on Short Plat filed in Book F of Short Plats, pages 206 and 207, and recorded January 16, 2002 under Auditor's File No. 200201160036, records of Kittitas County, State of Washington. Being that portion of the North half of Section 31, Township 20 North, Range 16 East, W.M., records of said County. TOGETHER WITH all water rights and irrigation ditches appurtenant thereto, if any.

A third party, the Potts, purchased Lot 2 of the Talerico Short Plat. Lot 2 is adjacent to Mr. Lang's Lots 1 and 3. Lot 2 also had water rights under Claim No. 05671 appurtenant to it. The water right was partitioned according to the Stipulated Order of Dismissal Regarding Joinder of an Additional Party (Stipulated Order) filed on October 20, 2004, for Claim No. 05671 in *Acquavella*. By such Stipulated Order, the parties, Allen Lang and Carole Greene, husband and wife, and Michael Potts and Karen Potts, husband and wife, stipulated as follows as to the water right:

1. The parties will prorate the current four (4) acre water right so that Potts will use three-quarters (3/4) of an acre of irrigation and Lang will retain three and one-quarter (3 1/4) acres of irrigation.
2. The authorized water right for irrigation, stock water and conveyance loss will also be prorated and Potts will receive .045 cfs and 4.31 acre-feet per year. Lang will receive .195 cfs and 18.69 acre-feet per year.

The water right allocated to the Langs from the Stipulated Order (0.195 cfs and 18.69 acre-feet per year) is the subject water right of this Change Application.

Continued

For the years 2006, 2007, and 2008, the subject water has been placed in the Washington Department of Ecology's Temporary Trust Water Rights Program.

Several sources of information were reviewed and considered by the Board to document the historical use of the subject water.

Declarations

Affidavits were provided by Mr. Allen Lang and Mr. Fred Talerico. Mr. Talerico's mother, Doris Marie Talerico, is the named claimant on Court Claim No. 05671 which identifies the subject water right with a priority date of June 5, 1886. On or about January 23, 2002, Doris Talerico sold a portion of her property to Mr. Allen Lang and Carole Greene, husband and wife, who remain the owner of the real property to which the water rights are appurtenant. In April 2006, the applicant purchased the water rights from the Langs. Mr. Talerico provided an Affidavit dated May 26, 2006. Mr. Lang provided two Affidavits, one dated May 26, 2006, and the other dated March 27, 2007. Together, these Affidavits describe Mr. Lang's and Mr. Talerico's historical use of the water on Lots 1, 3, and 4 of the Talerico Short Plat, namely that:

*Mr. Lang irrigated Lots 1, 3, and 4 during the years 2003, 2004, and 2005 for alfalfa hay and horse pasture.

* From the early 1990s until 2002, the Talerico's irrigated Lots 1, 3, and 4 for alfalfa hay and horse pasture.

* In 2006 and 2007, the subject water rights have been placed in Ecology's Temporary Trust Water Right Program for instream flow purposes and to prevent any issues of relinquishment while this change application is being processed.

Since these Declarations were made, the temporary trust water right term was extended to December 31, 2008.

Previous changes

<Describe any previous change decisions associated with the water right>

There are no previous change decisions associated with water right claim no. 05671.

SEPA

The board has reviewed the proposed project in its entirety and recognizes that this change application is requested to effectuate government ordinances passed by Kittitas County and the City of Cle Elum. Both the City of Cle Elum and Kittitas County approved, by separate ordinance, amendments to their respective Comprehensive Plans and Maps to incorporate the applicant's property into the City of Cle Elum's Urban Growth Area, and ultimate annexation into the Cle Elum city limits to be served by city municipal services. Each government entity conducted separate public hearings on the applicant's proposal and each government entity conducted SEPA review for the Comprehensive Plan amendments. At this time, the applicant has not proposed a specific development project so SEPA review has been limited to the comprehensive plan amendments.

Other

This change application is being pursued to satisfy the City of Cle Elum annexation policy. Until the applicant's property is annexed into the City of Cle Elum city limits the water right shall remain appurtenant to the property or in the Washington Department of Ecology Temporary Trust Water Right Program.

The information or conclusions in this section were authored and/or developed by the Kittitas County Water Conservancy Board.

COMMENT AND PROTESTS [See WAC 173-153-130(6)(b)]

Public notice of the application was given in the Ellensburg Daily Record on February 28, 2008 and March 6, 2008. The last day of the 30-day protest period ended on April 6, 2008. The Notice of Publication also informed the public that a public hearing on the Application would be held on June 17, 2008, at the Kittitas County Water Conservancy Board's regular meeting. There were no protests received during the 30 day protest period. In addition, no oral and written comments were received at an open public meeting of the board or other means as designated by the board.

Date: <Date protest/comment received>

This was recognized by the board as a ☐ Protest ☐ Comment

Name/address of protestor/commenter: <name/address of protestor/commenter>

Issue: <describe issues raised>

Board's analysis: <board's response to the protest/comment>

NOTE to author: Repeat this table as necessary to describe each protest or comment

Other

<Provide any other pertinent information relative to the comments and protests received>

The information or conclusions in this section were authored and/or developed by the Kittitas County Water Conservancy Board.

INVESTIGATION [See WAC 173-153-130(6)(c)]

The following information was obtained from a March 6, 2008, site inspection conducted by Alternate Board member Jerry Martens who reported to the Board, technical reports; research of department records; supporting documents presented in the applicant's change application; and conversations with the applicant, the land owner, and/or other interested parties.

Proposed project plans and specifications

<Describe proposed use of water to include # of connections, method of irrigation, type of crop, commercial use, etc.>. Also describe any issues related to development, such as the proposed development schedule and an analysis of the effect of the proposed transfer on other water rights, pending change applications & instream flows established under state law>

The applicant, Central Cascades Land Company, Inc., is a Washington corporation. The applicant owns approximately 90 acres of industrial zoned land within the City of Cle Elum Urban Growth Area (UGA). The applicant will annex the property into the City of Cle Elum city limits so that municipal water and sewer can serve the property for city-approved purposes. The proposed change application will allow water to be transferred to the City of Cle Elum for municipal supply purposes to serve the current and future service area approved in the City's Water System Plan. The City will amend its Comprehensive Water Plan to expand its service area to include the applicant's property. The applicant and the City of Cle Elum will establish a development schedule in the annexation agreement.

Other water rights appurtenant to the property (if applicable)

<Describe any other water rights or other water uses associated with both the current and proposed place of use and an explanation of how those other rights or uses will be exercised in conjunction with the right proposed to be transferred> The City of Cle Elum has several certified water rights from the State of Washington Department of Ecology for the appropriation of water to serve its municipal service area. These water rights and a brief description of use are included in Chapter 4 of Cle Elum's Comprehensive Water Plan, of which relevant pages are attached and incorporated herein by reference. The water rights proposed for transfer in this change application will be additive and supplemental to existing water rights held by the City of Cle Elum and will support water delivery to an expanded area of the Cle Elum Municipal Service Area. The City's Comprehensive Water Plan only addresses water use under the City's existing water rights and within the existing service area. The City will update its Comprehensive Water Plan to include the applicant's property into the municipal service area so that water transferred under this change application will be available to serve the expanded service area for municipal supply purposes. Water serving the existing place of use is diverted from the Yakima River to the Younger Ditch. There are no other points of diversion in between the River and the Ditch. There are numerous other claimants that received rights to water from the Younger Ditch in the Conditional Final Order for Subbasin No. 5 (Elk Heights). The existing place of use is the last property to receive water from the Younger Ditch. Water rights certificates for the Younger Ditch water users were provisioned with a requirement that a proportionate share of the water must remain in the Younger Ditch as conveyance loss. The proposed transfer *excludes* water allocated for conveyance loss under the claim in compliance with the water right certificate. The land owner of the existing place of use intends to provide water to the property with a Group B well system.

Public Interest (groundwater only)

The proposed transfer is subject to RCW 90.44.100 and therefore, cannot be detrimental to the public interest, including impacts on any watershed planning activities.

<Provide an analysis of the transfer as to whether it is detrimental to the public interest, including impacts on any watershed planning activity. Public interest is not considered if the proposed water right is authorized under RCW 90.03.380 exclusively>

The proposed water right is authorized under RCW 90.03.380 exclusively therefore the proposed transfer is not subject to RCW 90.44.100.

Technical Investigation

Aerial Photos

Aerial photographs of the property were reviewed and it was clear to the Board that the property had been irrigated and the subject water right was put to beneficial use on the property from 2001-2005. Aerial photos of the property were obtained by the applicant from the Farms Service Agency office in Ellensburg, WA for the years of 2001, 2003, 2004, 2005, and 2006. The aerial photo of the property for the year 2002 was obtained by the applicant from the Washington Department of Ecology Public Information Office and is stated to be a Farm Service Agency photo. The photos indicate the property has been historically irrigated. For the years 2006, 2007, and 2008, the subject water has been placed in Ecology's Temporary Trust Water Right Program and the aerial photo for 2006 clearly demonstrates, as a strong comparison, the condition of the property without any irrigation water applied.

The applicant retained a technical consultant to determine quantities of water diverted and consumptive use of crops on the property (see Water & Natural Resource Group Technical Memorandum dated January 31st, 2008). The entire Technical Memo was presented in the applicant's change application and reviewed by the Board. The Technical Memo presents a thorough analysis of existing information to reach a conclusion about the beneficial use and consumptive use of the water right on the property. The Board's analysis and determination relied on the information presented in the Technical Memo, as well as all the other supporting documentation provided by the applicant.

Pump Metering Analysis

Mr. Lang provided a copy of the Electrical Work Permit Application #1524255 dated August 15, 2002, documenting the installation of the 100 amp service. Mr. Lang also provided meter records obtained from the Kittitas County Public Utility 5District #1 showing the usage from the 100 amp service beginning September 12, 2002, (the first billing after the 100 amp service was installed) through March 20, 2006, just prior to the 2006 irrigation season and when the water was placed in the Trust Water Rights Program.

Specific details of the pump and conveyance system are provided in the Water & Natural Resource Group Technical Memorandum (2008). In summary the following conclusions were reached:

1. Electrical records are available for 2002 through 2006
2. The pump and conveyance system were represented by the years 2003-2005 in which no other draw was recorded on the electrical records.

Continued

3. Pump metering calculations revealed that in 2003 greater than 18.69 AF of water was diverted, in 2004 14.57 AF of water was diverted, and in 2005 15.23 AF of water was diverted (see Table 6 of WNR Group Technical Memorandum).
4. Electrical records and pump metering analysis reveal the full quantity of water has been diverted within the last 5-years of use.

Consumptive Use Analysis

The subject water rights under Claim No. 05671 and subsequent Stipulated Order of Dismissal Regarding Joinder of an Additional Party resulted in Mr. Lang retaining 3.25 acres of irrigation for alfalfa hay and stockwatering, 0.195 cfs and 18.69 acre-feet per year. The water is diverted from the Younger Ditch located on the south boundary of Lot 3 using a 2 horsepower pump and flood irrigation. This point of diversion is located in the N1/4 of Section 35, T20N, R15E, W.M. The diversion then conveys water to an irrigation system that conveys water through two (2)-inch hand lines (totaling 270 feet) with nine, 5 gpm sprinklers. Approximately 2.5 acres were irrigated with handlines and 0.75 acre by flood irrigation.

Volume of water pumped can be confirmed using the power consumption data as described in WAC 173-173-160(2). Using this methodology, the following was calculated:

First the total dynamic head (TDH) was calculated: Using a flow rate of 42.5 gpm, in a 2-inch plastic pipe, that traverses a total of 470 feet, with a maximum differential elevation of 20 feet, the TDH is 36.3 ft.

The formula presented in WAC 173-173-160(2) is: $V = 318,600 \text{ (kWh) (Peff) (Meff) / TDH}$

Where:	kWh = number of kilowatt hours (year 2003 was used) =	2350
	Peff = pump efficiency =	0.55
	Meff = motor efficiency =	0.55
	TDH = total dynamic head =	36.3

These values would result in: $V = 6,239,250$ gallons or 19.15 acre-feet. Therefore, it appears the entire water right of 18.69 was diverted and put to beneficial use in the year 2003.

The WNR Technical Memos provided to the Board in 2008 and 2009 presented data on the crop irrigation requirement (CIR) and total irrigation requirement (TIR) for the property using several different methodologies: the Washington Irrigation Guide (WIG); Ecology Guidance/Policy 1210; and the Blaney-Criddle Method, a temperature based method. The Technical Memo indicates that alfalfa was used as the crop grown for all the methodologies and that temperature, precipitation and other lookup values were used for the town of Cle Elum located approximately two (2) miles northwest of the Lang property (Western Climate Center Station No. 451504).

The WIG numbers present a calculation based on a modified Blaney-Criddle method with long term precipitation and temperature data prior to the 1980's. Within the WNR Group Memo, the Blaney-Criddle Method, with the site specific precipitation and temperature data, was presented for the year 2003, which was the year of the highest electrical usage. For 2003, the consumptive use as determined by the Blaney Criddle Method for irrigation of alfalfa from June through September; and the amount consumed for stockwatering are:

Flood Irrigation of 0.75 acres:	1.24 acre-feet
Sprinkler Irrigation of 2.5 acres:	4.32 acre-feet
Stockwatering	0.41 acre-feet

After a thorough analysis of the different methodologies, WNR concluded in the Technical Memo that, in summary, the water right was perfected to its full extent of 18.69 acre-feet, as determined from electrical records at the site. The consumptive use portion of the water right from the year 2003 was 5.97 acre-feet. Which results in a consumptive percentage of approximately 32% of the water put to beneficial use. The Board concurs with WNR's consumptive use analysis and conclusions.

Because this change includes both a consumptive and non-consumptive use portion of the water right, the Board concludes that the consumptive use associated with the 18.69 acre-feet of irrigation water under the present change authorization, shall not exceed 5.97 acre-feet to ensure that there is no enlargement of this right. Diversion up to the full tentative determination of 18.69 acre-feet can be certificated at the time of Ecology's proof exam if the following conditions are satisfied: 1) the water right holder can clearly demonstrate that up to 12.72 acre-feet of the historic return flow is being beneficially used and returned to the Yakima River without any reduction in quantity; the existence of a water district, or service of the subject area/project by a municipal purveyor with sufficient technical, operational, and financial capacity to manage the water system. Ecology will make this determination through the review of metering records, water and sewer planning documents, and other relevant information. These planning documents must describe the coordinated monitoring and management of the proposed water and sewer utilities to ensure that the consumptive use limit of 5.97 acre-feet will be observed in perpetuity.

If the water right holder has not fulfilled the above noted return flow use conditions to Ecology's satisfaction, then Ecology shall certificate only that portion of the 5.97 acre-feet of historic consumptive use that has been put to beneficial use. Furthermore, assuming certification at the time of proof exam, the future municipal purveyor or water district is required to continually demonstrate through Washington State Department of Health water system planning documents that the authorized non-consumptive portion of this water right is being returned to the Yakima River without loss. The City of Cle Elum's letter dated May 12, 2009, indicates that the City has monitoring protocols in place and that historic data on water production and return flows indicate that transferring both the consumptive and non-consumptive use portion under KITT 08-02 will not expand the right under Claim No. 05671.

Proposed New Water Demand

The proposed new use is for municipal supply purposes from the City of Cle Elum. The applicant is pursuing this transfer to satisfy the City of Cle Elum annexation policy to annex approximately 90 acres of industrial zoned land into the city limits. The amount of water transferred to Cle Elum for municipal supply purposes will not result in a change in the period of use and will not exceed the amount of water consumed at the existing place of use so that the Total Water Supply Available in the Yakima Basin remains neutral. The City of Cle Elum has an existing Warren Act contract with the U.S. Bureau of Reclamation for up to 3cfs of water storage. The City of Cle Elum experiences an increased water demand during the irrigation season months of April thru October. The applicant will be supplying all the necessary irrigation season water rights to the City of Cle Elum which in turn will utilize its Warren Act contract water to supply water during the non-irrigation season months. The exact amount of water required by the city to serve additional uses as a result of the proposed annexation is not yet determined. However, since the 90-acre area proposed for annexation is zoned industrial, some estimates of water demand can be made. The Board acknowledges that industrial uses have a wide range of water demands and can be less than or more than that required for single family residences. To assist in estimating water demand, the Board consulted the WA Dept. of Health Water System Design Manual, Table 5-2: Guide for Non-Residential Water Demand (see Board's file). The Board also reviewed the City of Cle Elum's Comprehensive Plan, Capital Facilities Chapter (2007), Table CF1-Annual Water Consumption by User Category January 2001-December 2005, and Table CF2-Year 2026 Future Water Demand By Pressure Zone (see Board's file). The DOH Table 5-2 shows that the water demand to support a day worker is 15 gpd. At that rate, 8.02 acre-feet of water could support nearly 500 day workers (7,160 gpd divided by 15 gpd/worker). For Industrial uses, the annual demand per service (gpd/service) as identified in the City's Comprehensive Plan, Table CF-2 is 2,678 gpd. There is an average of 895 gallons per day in one acre foot of water per year. To meet this estimated annual demand, the applicant would need to transfer at least 2.9 acre feet of water to the City. Based on these assumptions, the Board concludes that the proposed transfer will supply sufficient water to meet Cle Elum's municipal supply service requirements resulting from the proposed future annexation.

Tentative Determination

In order to make a water right change decision, the Board must make a tentative determination on the validity and extent of the right. The Board has made the tentative determination as displayed upon the first page of this report. The Board's tentative determination was based upon the following findings:

<Describe any information indicating that an existing water right or portion of a water right has been relinquished or abandoned due to nonuse and the basis for the determination>

The Board's review of all the information provided by the applicant as indicated herein demonstrates that there is no information to support a determination of relinquishment or abandonment of any portion of the subject water right.

Geologic, Hydrogeologic, or other scientific investigations (if applicable)

<Describe the results of any geologic, hydrogeologic, or other scientific investigations that were considered by the board and how this information contributed to the board's conclusions>

The water utilized under Claim #05671 is located within the Yakima River watershed. Specifically, water is diverted from the Yakima River and conveyed through the Younger Ditch to the existing place of use. A portion of the water is put to beneficial use on the property and consumed by the crops or stockwater, while the remainder is returned to the sand and gravel fill which eventually flows back to the Yakima River. The new point of diversion/withdrawal is still within the Yakima River Valley hydrologic system and non-consumed water will also enter the valley fill sediments and return to the Yakima River. Therefore, the existing and proposed place of use and point of diversion are within the same water source.

Hydrologic Continuity

Hydrologic continuity refers to the hydrologic connection of surface water to groundwater. The Yakima River is the surface water body from which the existing and new point of diversion occurs. The proposed new point of diversion is to the City of Cle Elum's Yakima River diversion which is located upstream approximately one-half mile from the existing point of diversion. Thus, the same body of water, the Yakima River, is the water source that serves both the existing point of diversion and the proposed point of diversion within the same valley and watershed.

Other

The applicant provided a USDA-NRCS soils map and map unit description for the existing place of use. The existing place of use is identified as type "208 - Patnish-Mippon-Myzel complex, 0-3 % slopes" and is not prime farmland. The parent material is described as alluvium mixed with volcanic ash in the upper part.

<Provide any other pertinent information relative to the investigation of this application>

The information or conclusions in this section were authored and/or developed by the Kittitas County Water Conservancy Board.

CONCLUSIONS [See WAC 173-153-130(6)(d)]

Based upon the foregoing, the Board reaches the following conclusions:

Tentative determination (validity and extent of the right)

<Describe whether, and to what extent, a valid water right exists>

The Board concludes, based on the documented history of water use and other supporting evidence offered with this change application that the water right is valid in the amount proposed for change, namely 0.195 cfs and 18.69 acre-feet per year for seasonal municipal supply purposes. The Board further concludes that the quantity of water sought to be changed has not been relinquished pursuant to RCW 90.14.130 *et seq.* nor has the water right been abandoned.

Relinquishment or abandonment concerns

<Describe any relinquishment or abandonment of the water right associated with the water right transfer application as discussed in the investigation section of this report>

The Board concludes, after review of all the supporting documents that the water right has not been relinquished pursuant to RCW 90.14.130 *et seq.* nor has the water right been abandoned. The Board is authorizing 0.095 cfs and 18.69 acre-feet per year to be used for municipal supply purposes.

Hydraulic analysis

<Describe the result, as adopted by the board, of any hydraulic analysis done related to the proposed water right transfer>

The Board concludes, based upon its review of the supporting documents and site visit that the proposed transfer will not increase the amount of water beneficially used and as a result, the proposed transfer will not impair any other rights.

Consideration of comments and protests

<Discuss the board's conclusions of issues raised by any comments and protests received>

The Board concludes that no comments or protests were received on this proposed change application.

Impairment

<Describe how or if the transfer proposal will impair existing rights of others>

The Board concludes, based upon its review of the supporting documents and site visit that the proposed transfer will not increase the amount of water beneficially used and as a result, the proposed transfer will not impair any other rights.

Alternate Board member Jerry Martens, conducted a site visit with the applicant and the landowner on March 6, 2008, that included examination and review of the current place of use, point of diversion and the proposed place of use and point of diversion. The proposed point of diversion is the City of Cle Elum's Yakima River Source which is a surface water source located at the South Cle Elum Bridge and is about 0.5 miles upstream of the existing point of diversion. The proposed change is also from a seasonal irrigation water right to a season municipal water right. The City of Cle Elum's point of diversion is equipped with three 1,400 GPM pumps, but only a maximum of two pumps are operated at any one time. The existing point of diversion is also from the Yakima River and utilizes the Younger Ditch as the conveyance system, which is shared by other water users. A review of the Yakima River between the existing point of diversion and new point of diversion shows there are no authorized points of diversion from the river between the current and proposed points of diversion. The Board concludes that no impact or impairment to other water right holders who use the existing point of diversion and Younger Ditch is expected from the proposed change application.

The Board's review supports the conclusion that the water withdrawn from the proposed new point of withdrawal is in hydraulic continuity with the Yakima River and the source of water and mechanism for its return to the Yakima River is hydrologically the same at both the existing and proposed point of withdrawal. The requested change also will not increase existing permitted water uses or increase the amount of water put to actual beneficial use, nor will there be any measurable impact on existing water rights, applications for new water rights, or water use impacts under current conditions. In accordance with the Conditional Final Order, the amount of conveyance articulated herein shall remain appurtenant to the Younger Ditch. In sum, the Board concludes that there will be no impairment to existing rights.

Public Interest

<If the proposed transfer is authorized pursuant to RCW 90.44.100, describe whether it is detrimental to the public interest.

Public interest shall not be considered if the proposed transfer is authorized pursuant to RCW 90.03.380 exclusively>

The Board concludes that the changes requested are consistent with public policy objectives of the State of Washington to provide efficient use of water resources, encourage supply of new or expanding uses through changes and/or transfers to existing water rights and to provide greater operational control to water managers. There are no identified adverse impacts to watershed planning activities. Consequently, the Board concludes that approval of the proposed changes and transfer will not be detrimental to the public interest.

Other

The board also considered the previous provisions associated with the water right as identified in the background section of this report when making its decision. No other information was considered.

DECISION [See WAC 173-153-130(6)(e)]

<Provide a complete description of the board's decision, fully and comprehensively addressing the entire application proposal>

<Provide any other pertinent information relative to the board's decision>

Based on the Board's investigation and conclusions presented herein, the Board recommends approval of the surface water right change application KITT-08-02, for Claim No. 05671, in accordance with the *Board's Decision on the Application* as set forth herein.

- Change the purpose of use from seasonal irrigation to seasonal municipal supply.
- Change the point of diversion and withdrawal about 0.5 miles upstream on the Yakima River to the City of Cle Elum's point of diversion on the south bank of the Yakima River.
- Change the place of use from the Lang property to the City of Cle Elum's existing and future Municipal Supply Service Area approved in Cle Elum's Water System Plan.
- The maximum instantaneous quantity is 0.095 cubic feet per second and the maximum annual quantity is 18.69 acre-feet per year.
- The cumulative impact to the City of Cle Elum's diversion on the south bank of the Yakima River at South Cle Elum (the new point of diversion) shall be additive by 0.095 cfs.
- The consumptive use associated with the 18.69 acre-feet of irrigation water under the present change authorization, shall not exceed 5.97 acre-feet to ensure that there is no enlargement of this right.

- The amount allocated for conveyance loss (0.102 cfs) shall remain in the Younger Ditch as required under the certificate.

The Board also concludes the following:

- The procedures followed to process this change application comply with state law, including RCW 90.03.380, RCW 90.44.100, and RCW 90.80.070.
- The portion of Claim No. 05671 proposed for transfer as set forth herein is a valid and exercisable water right.
- The proposed transfer as set forth herein will maintain neutrality to the Total Water Supply Available in that the existing place of use will be followed and no longer irrigate under Claim No. 05671, and the consumptive use at the new place of use will not increase from the consumptive use identified at the existing place of use.
- The proposed transfer as set forth herein will not result in injury or detriment to existing water rights, or adversely change instream flow rights recognized by RCW 90.03.345.
- The proposed surface water transfer as set forth herein will not be detrimental to the public interest.
- The proposed development schedule is a reasonable schedule for development of newly annexed property into the Cle Elum city limits. The development schedule will be further defined in the annexation agreement entered into between the City of Cle Elum and the applicant.

The information or conclusions in this section were authored and/or developed by Kittitas County Water Conservancy Board.

PROVISIONS [See WAC 173-153-130(6)(f)]

<Identify any conditions and limitations recommended as part of an approved transfer, and/or any other corrective action necessary to maintain the water use in compliance with state laws and regulations>

1. The City of Cle Elum shall continue to maintain meters on all sources of water supply.
2. All services receiving City water shall be metered and read monthly.
3. The applicant is not permitted to act on the proposed change application until the Washington Department of Ecology makes a final decision affirming, in whole or in part, the Board's recommendation put forth herein. However, if Ecology does not act on the Board's recommendation within the time frame established in RCW 90.80.080, the applicant is allowed to initiate the water right change pursuant to the Board's record of decision after that period of time has expired. It is advised that the applicant not proceed until the 30-day appeal period following Ecology's decision is complete, in compliance with WAC 173-153-180.
4. In accordance with WAC 173-160, wells shall not be located within certain minimum distances of potential sources of contamination. These minimum distances shall comply with local health regulations, as appropriate. In general, wells shall be located at least 100 feet from sources of contamination. Wells shall not be located within 1,000 feet of the boundary of a solid waste landfill.
5. All wells constructed in the state shall meet the construction requirements of WAC 173-160 titled "Minimum Standards for the Construction and Maintenance of Wells" and RCW 18.104 titled "Water Well Construction". Any well which is unusable, abandoned, or whose use has been permanently discontinued, or which is in such disrepair that its continued use is impractical or is an environmental, safety or public health hazard shall be decommissioned.
6. All wells shall be tagged with a Department of Ecology unique well identification number. If you have an existing well and it does not have a tag, please contact the well-drilling coordinator at the regional Department of Ecology office issuing this decision. This tag shall remain attached to the well. If you are required to submit water measuring reports, reference this tag number.
7. Installation and maintenance of an access port as described in WAC 173-160-291(3) is required.
8. An approved measuring device shall be installed and maintained for each of the sources authorized by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173.
<http://www.ecy.wa.gov/programs/wr/measuring/measuringhome.html>
9. Water use data shall be recorded annually and maintained by the property owner for a minimum of five years, and shall be promptly submitted to the Department of Ecology upon request.
10. Reported water use data shall be submitted via the Internet or by using the enclosed forms. To set up an Internet reporting account, access <https://fortress.wa.gov/ecy/wrx/wrx/Meteringx/>. If you have questions or need additional forms, contact the Central Regional office.
11. WAC 173-173 describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed as a document entitled "Water Measurement Device Installation and Operation Requirements". <http://www.ecy.wa.gov/programs/wr/measuring/measuringhome.html>
12. If the criteria in RCW 90.03.386(2) are not met and a Water System Plan/Small Water System Management Program was approved after September 9, 2003, the place of use of this water right reverts to the service area described in that document. If the criteria in RCW 90.03.386(2) are not met and no Water System Plan/Small Water System Management Program has been approved after September 9, 2003, the place of use reverts to the last place of use described by the Department of Ecology in a water right authorization.
13. Prior to any new construction or alterations of a public water supply system, the State Board of Health rules require public water supply owners to obtain written approval from the Office of Drinking Water of the Washington State Department of Health. Please contact the Office of Drinking Water prior to beginning (or modifying) your project at Eastern Drinking Water Operations, 1500 West Fourth Avenue, Suite 305, Spokane, WA 99204, (509) 456-3115.
14. Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.
15. The water right holder shall file the notice of project completion when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The superseding certificate will reflect the extent of beneficial use within the limitations of the change authorization. Elements of the project completion inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and compliance with provisions.

Continued

16. Because this change includes both a consumptive and non-consumptive use portion of the water right, the Board concludes that the consumptive use associated with the 18.69 acre-feet of irrigation water under the present change authorization, shall not exceed 5.97 acre-feet to ensure that there is no enlargement of this right. Diversion up to the full tentative determination of 18.69 acre-feet can be certificated at the time of Ecology's proof exam if the following conditions are satisfied: 1) the water right holder can clearly demonstrate that up to 12.72 acre-feet of the historic return flow is being beneficially used and returned to the Yakima River without any reduction in quantity; the existence of a water district, or service of the subject area/project by a municipal purveyor with sufficient technical, operational, and financial capacity to manage the water system. Ecology will make this determination through the review of metering records, water and sewer planning documents, and other relevant information. These planning documents must describe the coordinated monitoring and management of the proposed water and sewer utilities to ensure that the consumptive use limit of 5.97 acre-feet will be observed in perpetuity.

If the water right holder has not fulfilled the above noted return flow use conditions to Ecology's satisfaction, then Ecology shall certificate only that portion of the 5.97 acre-feet of historic consumptive use that has been put to beneficial use. Furthermore, assuming certification at the time of proof exam, the future municipal purveyor or water district is required to continually demonstrate through Washington State Department of Health water system planning documents that the authorized non-consumptive portion of this water right is being returned to the Yakima River without loss.

Conditions and limitations

Mitigation (if applicable)

<Describe any requirement to mitigate adverse effects of the project. Mitigation may be proposed by the applicant or the board and be required in the board's decision>

Construction Schedule

<Provide a schedule for development and completion of the water right transfer, if approved in part or in whole, that includes a definite date for completion of the transfer and application of the water to an authorized beneficial use>

If the Board and Dept. of Ecology approve this water rights change application, the water rights will be transferred and conveyed to the City of Cle Elum as part of the applicant's annexation agreement with the City. Thus the applicant expects to begin the project by May 15, 2011; complete the project by December 15, 2020; and complete the change and put water to full beneficial use by January 1, 2022.

Other

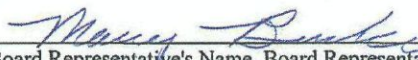
<Provide any other pertinent information relative to provisions>

None.

The information or conclusions in this section were authored and/or developed by Kittitas County Water Conservancy Board.

The undersigned board commissioner certifies that he/she understands the board is responsible "to ensure that all relevant issues identified during its evaluation of the application, or which are raised by any commenting party during the board's evaluation process, are thoroughly evaluated and discussed in the board's deliberations. These discussions must be fully documented in the report of examination." [WAC 173-153-130(5)] The undersigned therefore, certifies that he/she, having reviewed the report of examination, knows and understands the content of this report and concurs with the report's conclusions.

Signed at Ellensburg, Washington
This 16th day of June, 2009



Board Representative's Name, Board Representative
Board Name Water Conservancy Board

If you have special accommodation needs or require this form in alternate format, please contact 360-407-6607 (Voice) or 711 (TTY) or 1-800-833-6388 (TTY).

Ecology is an equal opportunity employer